THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2280 OF 2007

DATED: 12-03-2007

BETWEEN

K.P. Bhopal Reddy,
S/o. K. Balaswamy,
R/o. H.No.3/2,
Kothapeta, Bethamcherla,
Kurnool District.

...PETITIONER

AND

The Station House Officer,
Gadwal Town Police Station,
Mahabubnagar District.

...RESPONDENT

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondent in harassing and trying to arrest him by branding him as Gopal Reddy S/o. Rami Reddy as accused No.3 in C.C.No.201 of 2004 on the file of the Judicial Magistrate of First Class at Gadwal, as illegal and arbitrary.

2. Learned counsel for the petitioner submits that the petitioner is K.P. Bhopal Reddy and elected as a member of the IV ward of Bethamcherla village. While so, the police constables of the first respondent insisted that the petitioner was Gopal Reddy and that he was the third accused in Cr.No.126 of 2004 on the file of Gadwal Town Police Station and that a charge sheet was also filed against him, which was numbered as C.C.No.201 of 2004 on the file of the Judicial Magistrate of First Class,

Gadwal. He further submits that under the guise of arresting Gopal Reddy the respondent is making an attempt to arrest the petitioner.

3. On instructions, the learned Government Pleader for Home submits that the Sub-Inspector of Police, Gadwal Town Police Station filed a memo dated 13.02.2007 before the JFCM, Gadwal stating that during the course of investigation by mistake of type the Investigating Officer mentioned the name of the third accused as Gopal Reddy
S/o. Ram Reddy, but his further investigation revealed that the name of the accused is Bhopal Reddy (petitioner herein), S/o. Balaswamy. The Sub-Inspector of Police requested the Honourable Court to rectify the name of the accused as Bhopal Reddy, S/o. Balaswamy instead of Gopal Reddy S/o. Ram Reddy.

4. The fact remains that the police made investigation and filed a charge sheet showing the name of accused No.3 as Gopal Reddy but now they filed a memo stating that, in fact, the further investigation made by the Investigating Officer revealed that the name of the accused is Bhopal Reddy and the same was disclosed by identifying
A1 and A2 who were co-accused participating in the same cause of action of the aforesaid crime. I am not inclined to express any opinion with regard to the legality or validity of the aforesaid memo dated 13.02.2007.

5. Whether the said mistake is *bona fide* or not and whether the police is entitled to file such a memo without filing a second final report are matters to be enquired and decided by the Judicial Magistrate of First Class, Gadwal. Unless the JFCM, Gadwal makes enquiry on the said memo and passes appropriate order after giving reasonable opportunity to the petitioner, the respondent-police shall not arrest the petitioner.

The writ petition is accordingly disposed of. There shall be no order as to costs.

_____

V. ESWARAIAH, J

March 12, 2007

Note: Furnish C.C. of the order by 14.03.2007

(**B**/**o**)

DSK